



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: 8ENF-L

January 12, 2012

VIA E-MAIL

Linnea Brown, Esq.
Elizabeth Temkin, Esq.
Temkin Wielga & Hardt LLP
1900 Wazee Street, Suite 303
Denver, Colorado 80202
E-mail addresses:
brown@twhlaw.com
temkin@twhlaw.com

Re: Freedom of Information Requests for Pavillion
Field Area in Fremont County, Wyoming
FOIA Request Numbers 08-FOI-00076-12, 03-FOI-
00216-12, HF-FOI-00469-12, 08-FOI-00090-12,
08-FOI-000089-12

Dear Ms. Brown and Ms. Temkin:

Thank you for continuing to work with the United States Environmental Protection Agency (EPA) regarding the above-referenced Freedom of Information Act Requests (FOIA Requests). Attachment 1 to this letter summarizes Encana's FOIA Requests sent to Region 3, Region 8, the Robert S. Kerr Environmental Research Center, and the Office of Research and Development (ORD). Please note, as we discussed, and as noted in footnote 1 to the attachment, this table summarizes the status of the FOIA Requests as of January 12, 2012, and will be modified after we resolve our communications with your office regarding simplifying the process.

During our meeting on January 10, 2012, we discussed streamlining and condensing the Requests by merging them into one document with specific sections for each of the EPA offices and applying any limitations we agreed upon with regard to FOIA Number 08-FOI-00076-12 to all the FOIA Requests. Merging the FOIA Requests and evaluating ways to narrow their scope is designed to ensure consistency and efficiency, and to provide the responsive records to Encana as expeditiously as possible.

In my conversation with Ms. Brown this afternoon, she indicated that she is preparing a merged FOIA Request and expects to provide it to EPA as soon as possible. Ms. Brown also indicated Encana is sending an additional FOIA Request to ORD at some point in the future.

In the interim, the above-referenced FOIA Requests seek voluminous records, and responding will involve search and review efforts in multiple EPA offices by many EPA personnel. Therefore, "unusual circumstances" exist so that that EPA's responses to the requests will require significantly more than twenty business days to complete. *See* 40 C.F.R. §§ 2.104(c) and (d). Additionally, we anticipate that EPA's costs of responding to the requests will substantially exceed \$250.00, and that prepayment of estimated costs will be required as provided at 40 C.F.R. § 2.107(j). Accordingly, EPA will contact you as soon as practicable regarding the time frame for response, EPA's estimated cost of response, and required prepayment. 40 C.F.R. § 2.104(d). Based on your previous written and oral communications, we understand that Encana disagrees with EPA's interpretation regarding "unusual circumstances" with regard to the scope of the FOIA Requests.

As we discussed in several previous conversations, EPA has already provided a significant amount of documents responsive to the Requests, and numerous documents are available on EPA's Pavillion webpage (<http://www.epa.gov/region8/superfund/wy/pavillion/>). If clearly releasable documents are identified before a final response to the FOIA Request is ready, EPA will release documents to Encana in stages.

Thank you for your cooperation in this matter. We look forward to continuing to work with you on these issues. If you have questions regarding the FOIA Request, please feel free to contact Mr. Boydston at boydston.michael@epa.gov at (303) 312-7103, or me at marcu.michelle@epa.gov or at (303) 312-6921.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michelle Marcu", with a long horizontal flourish extending to the right.

Michelle Marcu
Enforcement Attorney

cc: Tom Sitz, 8ENF-L
Andy Lensink, 8ENF-L
Mike Boydston, 8RC
Ayn Schmit, EPR-IO